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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,081	07/08/2003	M. Mizanur Rahman	AB-336U	7989

23845 7590 08/24/2005

ADVANCED BIONICS CORPORATION
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EXAMINER

WIMER, MICHAEL C

ART UNIT	PAPER NUMBER
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2828

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,081

Applicant(s)

RAHMAN, M. MIZANUR

Examiner

Michael C. Wimer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 8/11/2005.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,5,13-15,22 and 25-28 and 30-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Villaseca et al. (6240317).

Regarding Claims 1-3,5,13-15,22 and 25-28, Villaseca et al. show in Fig. 7, for example, an RF telemetry antenna system for communication between an external programmer and an implantable medical device, where the system comprises an implantable medical device 122 having a housing made of metal such as titanium and of a cylindrical form and defining an internal volume, and a dielectric housing portion 138 defining an internal volume, a self-resonating, monopole antenna 124, wire 134, 136 with free end and connection end 126 contained within the internal volume defined by the dielectric portion 138, an internal TX/RX (col. 9, lines 15-26) operating in the 400 MHz. band and comprising a tissue stimulation circuit, where the antenna has an elongate form, folded at least once and conforms with the inside of the housing 138, and the connection end 126 has the shield 124 of the antenna connected to the conductive housing 122 defining a ground reference forming a ground plane as claimed.

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Regarding Claims 2,3 and 14, the transceiver is formed on a p.c. board and the housing 138 is epoxy/plastic and the housing 122 is titanium.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4,6-12,16-21,23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaseca et al. (6240317).

Regarding Claims 4,6-8 and 16-18, the permittivity value of 3.6 for the housing, specific wire composition, size and gauge therefor, are all obvious to the skilled artisan to achieve when selecting stock shelf materials in a particular design application used in the implantable device.

Regarding Claims 9,10,19,20,22 and 24, the shield 124 is disposed in an arc and the center conductor 134 is in a parallel arc, folded to provide maximum separation between housing and antenna.

Regarding claims 11 and 21, the frequency of operation is strictly an FCC-mandated allocation, made obvious by the skilled artisan using antenna frequency scaling.

Regarding Claims 12 and 23, shaping of the housing is always considered obvious to the skilled artisan to fit a particular environment, absent any unexpected results.

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5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Villaseca et al. (6240317) in view of Amundson et al. (6456256).

Regarding Claim 29, no specific teaching of "a spinal cord stimulation circuit" appears to be suggested in Villaseca et al. However, such a circuit within the housing falls under the class of implantable medical devices, taught by Villaseca et al. Amundson et al. teach that the implantable device disclosed thereby utilizes a curved/arcuate, monopole antenna with the housing used as a ground plane, where the antenna is connected to circuitry within the shielded housing for neuromuscular stimulation. Spinal cord stimulation falls under such use. Thus, it would have been obvious to the skilled artisan to include such circuitry in the housing of Villaseca et al.

Response to Arguments

6. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Wimer whose telephone number is (571) 272-1833. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minsun O. Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Michael C. Wimer", is positioned above the printed name.

Michael C. Wimer
Primary Examiner
Art Unit 2828

MCW
8/11/2005